

[COMMITTEE PRINT]

SEPTEMBER 25, 2000

**[Showing the Amendment as Approved by the Subcommittee
on Workforce Protections on September 19, 2000]**

106TH CONGRESS
2D SESSION

H. R. 5178

To require changes in the bloodborne pathogens standard in effect under
the Occupational Safety and Health Act of 1970

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 14, 2000

Mr. BALLENGER (for himself and Mr. OWENS) introduced the following bill;
which was referred to the Committee on Education and the Workforce

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on September 14, 2000]

A BILL

To require changes in the bloodborne pathogens standard
in effect under the Occupational Safety and Health Act
of 1970

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 *This Act may be cited as the “Needlestick Safety and*
3 *Prevention Act.”*

4 **SEC. 2. FINDINGS.**

5 *The Congress finds the following:*

6 *(1) Numerous workers who are occupationally*
7 *exposed to bloodborne pathogens have contracted fatal*
8 *and other serious viruses and diseases, including the*
9 *human immunodeficiency virus (HIV), hepatitis B,*
10 *and hepatitis C from exposure to blood and other po-*
11 *tentially infectious materials in their workplace.*

12 *(2) In 1991 the Occupational Safety and Health*
13 *Administration issued a standard regulating occupa-*
14 *tional exposure to bloodborne pathogens, including the*
15 *human immunodeficiency virus, (HIV), the hepatitis*
16 *B virus (HBV), and the hepatitis C virus (HCV).*

17 *(3) Compliance with the bloodborne pathogens*
18 *standard has significantly reduced the risk that work-*
19 *ers will contract a bloodborne disease in the course of*
20 *their work.*

21 *(4) Nevertheless, occupational exposure to*
22 *bloodborne pathogens from accidental sharps injuries*
23 *in health care settings continues to be a serious prob-*
24 *lem. In March 2000, the Centers for Disease Control*
25 *and Prevention estimated that more than 380,000*
26 *percutaneous injuries from contaminated sharps occur*

1 *annually among health care workers in United States*
2 *hospital settings. Estimates for all health care settings*
3 *are that 600,000 to 800,000 needlestick and other*
4 *percutaneous injuries occur among health care work-*
5 *ers annually. Such injuries can involve needles or*
6 *other sharps contaminated with bloodborne pathogens,*
7 *such as HIV, HBV, or HCV.*

8 *(5) Since publication of the bloodborne pathogens*
9 *standard in 1991 there has been a substantial in-*
10 *crease in the number and assortment of effective engi-*
11 *neering controls available to employers. There is now*
12 *a large body of research and data concerning the ef-*
13 *fectiveness of newer engineering controls, including*
14 *safer medical devices.*

15 *(6) 396 interested parties responded to a Request*
16 *for Information (in this section referred to as the*
17 *“RFI”) conducted by the Occupational Safety and*
18 *Health Administration in 1998 on engineering and*
19 *work practice controls used to eliminate or minimize*
20 *the risk of occupational exposure to bloodborne patho-*
21 *gens due to percutaneous injuries from contaminated*
22 *sharps. Comments were provided by health care facili-*
23 *ties, groups representing healthcare workers, research-*
24 *ers, educational institutions, professional and indus-*

1 *try associations, and manufacturers of medical de-*
2 *vices.*

3 *(7) Numerous studies have demonstrated that the*
4 *use of safer medical devices, such as needleless systems*
5 *and sharps with engineered sharps injury protections,*
6 *when they are part of an overall bloodborne pathogens*
7 *risk-reduction program, can be extremely effective in*
8 *reducing accidental sharps injuries.*

9 *(8) In March 2000, the Centers for Disease Con-*
10 *trol and Prevention estimated that, depending on the*
11 *type of device used and the procedure involved, 62 to*
12 *88 percent of sharps injuries can potentially be pre-*
13 *vented by the use of safer medical devices.*

14 *(9) The OSHA 200 Log, as it is currently main-*
15 *tained, does not sufficiently reflect injuries that may*
16 *involve exposure to bloodborne pathogens in*
17 *healthcare facilities. More than 98 percent of*
18 *healthcare facilities responding to the RFI have*
19 *adopted surveillance systems in addition to the*
20 *OSHA 200 Log. Information gathered through these*
21 *surveillance systems is commonly used for hazard*
22 *identification and evaluation of program and device*
23 *effectiveness.*

24 *(10) Training and education in the use of safer*
25 *medical devices and safer work practices are signifi-*

1 *cant elements in the prevention of percutaneous expo-*
2 *sure incidents. Staff involvement in the device selec-*
3 *tion and evaluation process is also an important ele-*
4 *ment to achieving a reduction in sharps injuries, par-*
5 *ticularly as new safer devices are introduced into the*
6 *work setting.*

7 *(11) Modification of the bloodborne pathogens*
8 *standard is appropriate to set forth in greater detail*
9 *its requirement that employers identify, evaluate, and*
10 *make use of effective safer medical devices.*

11 **SEC. 3. BLOODBORNE PATHOGENS STANDARD.**

12 *The bloodborne pathogens standard published at 29*
13 *C.F.R. 1910.1030 shall be revised as follows:*

14 *(1) The definition of “Engineering Controls” (at*
15 *29 C.F.R. 1910.1030(b)) shall include as additional*
16 *examples of controls the following: “safer medical de-*
17 *vices, such as sharps with engineered sharps injury*
18 *protections and needleless systems”.*

19 *(2) The term “Sharps with Engineered Sharps*
20 *Injury Protections” shall be added to the definitions*
21 *(at 29 C.F.R. 1910.1030(b)) and defined as “a non-*
22 *needle sharp or a needle device used for withdrawing*
23 *body fluids, accessing a vein or artery, or admin-*
24 *istering medications or other fluids, with a built-in*

1 *safety feature or mechanism that effectively reduces*
2 *the risk of an exposure incident”.*

3 (3) *The term “Needleless Systems” shall be added*
4 *to the definitions (at 29 C.F.R. 1910.1030(b)) and de-*
5 *defined as “a device that does not use needles for (A)*
6 *the collection of bodily fluids or withdrawal of body*
7 *fluids after initial venous or arterial access is estab-*
8 *lished, (B) the administration of medication or fluids,*
9 *or (C) any other procedure involving the potential for*
10 *occupational exposure to bloodborne pathogens due to*
11 *percutaneous injuries from contaminated sharps”.*

12 (4) *In addition to the existing requirements con-*
13 *cerning exposure control plans (29 C.F.R.*
14 *1910.1030(c)(1)(iv)), the review and update of such*
15 *plans shall be required to also—*

16 (A) *“reflect changes in technology that*
17 *eliminate or reduce exposure to bloodborne*
18 *pathogens”;* and

19 (B) *“document consideration and imple-*
20 *mentation of appropriate commercially available*
21 *and effective safer medical devices designed to*
22 *eliminate or minimize occupational exposure”.*

23 (5) *The following additional recordkeeping re-*
24 *quirement shall be added to the bloodborne pathogens*
25 *standard at 29 C.F.R. 1910.1030(h): “The employer*

1 *shall establish and maintain a sharps injury log for*
2 *the recording of percutaneous injuries from contami-*
3 *nated sharps. The information in the sharps injury*
4 *log shall be recorded and maintained in such manner*
5 *as to protect the confidentiality of the injured em-*
6 *ployee. The sharps injury log shall contain, at a*
7 *minimum—*

8 *“(A) the type and brand of device involved*
9 *in the incident,*

10 *“(B) the department or work area where the*
11 *exposure incident occurred, and*

12 *“(C) an explanation of how the incident oc-*
13 *curred.”.*

14 *The requirement for such sharps injury log shall not*
15 *apply to any employer who is not required to main-*
16 *tain a log of occupational injuries and illnesses under*
17 *29 C.F.R. 1904 and the sharps injury log shall be*
18 *maintained for the period required by 29 C.F.R.*
19 *1904.6.*

20 *(6) The following new section shall be added to*
21 *the bloodborne pathogens standard: “An employer,*
22 *who is required to establish an Exposure Control*
23 *Plan shall solicit input from non-managerial employ-*
24 *ees responsible for direct patient care who are poten-*
25 *tially exposed to injuries from contaminated sharps*

1 *in the identification, evaluation, and selection of ef-*
2 *fective engineering and work practice controls and*
3 *shall document the solicitation in the Exposure Con-*
4 *trol Plan.”.*

5 **SEC. 4. EFFECT OF MODIFICATIONS.**

6 *The modifications under section 3 shall be in force*
7 *until superseded in whole or in part by regulations promul-*
8 *gated by the Secretary of Labor under section 6(b) of the*
9 *Occupational Safety and Health Act of 1970 (29 U.S.C.*
10 *655(b)) and shall be enforced in the same manner and to*
11 *the same extent as any rule or regulation promulgated*
12 *under section 6(b).*

13 **SEC. 5. PROCEDURE AND EFFECTIVE DATE.**

14 (a) *PROCEDURE.*—*The modifications of the bloodborne*
15 *pathogens standard prescribed by section 3 shall take effect*
16 *without regard to the procedural requirements applicable*
17 *to regulations promulgated under section 6(b) of the Occu-*
18 *pational Safety and Health Act of 1970 (29 U.S.C. 655(b))*
19 *or the procedural requirements of chapter 5 of title 5,*
20 *United States Code.*

21 (b) *EFFECTIVE DATE.*—*The modifications to the*
22 *bloodborne pathogens standard required by section 3 shall—*
23 (1) *within 6 months of the date of enactment of*
24 *this Act, be made and published in the Federal Reg-*

1 *ister by the Secretary of Labor acting through the Oc-*
2 *cupational Safety and Health Administration; and*
3 *(2) at the end of 90 days after such publication,*
4 *take effect.*